



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Kansas

Affiliated with:
American Council of Engineering Companies
Kansas Society of Professional Engineers
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Professional Engineers in Private Practice

TESTIMONY

TO: HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

**FROM: SCOTT HEIDNER, EXECUTIVE DIRECTOR
AMERICAN COUNCIL OF ENGINEERING COMPANIES
OF KANSAS (ACEC of KANSAS)**

RE: HB 2201

DATE: MARCH 8, 2017

Chairman Barker, members of the Committee, thank you for the opportunity to appear today. My name is Scott Heidner, and I serve as Executive Director for the American Council of Engineering Companies of Kansas. (ACEC Kansas) ACEC Kansas represents the private sector consulting engineering industry in Kansas. We are here today in opposition to HB 2201.

HB 2201 creates artificial and substantial hurdles in front of private firms doing business with public entities. These barriers are going to be a disincentive to business investment in the state. There are multiple problems with HB 2201.

HB 2201 will create inefficiencies and costs. For the public sector, it creates a significantly increased burden in terms of extra documentation and compliance monitoring. This will add cost, regardless of whether contracts are eventually awarded to private sector firms or done internally. It is also worth noting that HB 2201 mandates these requirements down to local levels of government. This not only adds to their cost, but also creates an almost insurmountable problem for smaller units of government that have neither the staff nor the experience/expertise to comply with HB 2201. For the private sector, this also requires a significant increase in administrative work.



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This adds cost to the private sector companies, which is going to in turn add cost to the public because it will cost more for our member firms to provide those services to public agencies.

The data that would be provided by private companies would be available to anyone via an open records request. Most businesses will be very uncomfortable listing all costs, salaries, and pricing where it will be open for all competitors across the state to see. It certainly will be a disincentive to any business making decisions on whether to locate to Kansas or remain in Kansas.

HB 2201 requires all meetings between firms and the public entities with whom they contract to be subject to the Kansas Open Meetings Act. This is incredibly counterproductive. Consulting engineers meet with their public sector clients numerous times through a project, and often on short notice. These meetings are almost always technical in nature and work to provide the best and fastest value and service to the contracting agency. The time delay that would be created by subjecting all contracts to the Kansas Open Meetings Act would be enormous and would add cost to each public entity doing the contracting.

HB 2201 would also put the state in violation of both federal and state procurement laws when it comes to procuring professional design services. The federal law, the "Brooks Act", and state law found in KSA 75-5801 *et seq*, both require use of "qualifications based selection" when procuring professional design services. This is a well-defined and almost universally embraced approach that starts the procurement process with a review of qualifications. The requirement to submit all the data required in HB 2201 during the initial phase of the procurement process would be in violation of both the state and federal laws already in place.

HB 2201 would require private firms to match salary and health insurance packages available to public agency employees. While our members probably meet that requirement in the majority of cases, this



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creates more paperwork and cost. Research has to be done to ensure the state is comparing the appropriate level of public employee to the private sector consultant doing the work. The private sector consultant has to recertify these numbers quarterly. All of this adds administrative burden and cost.

Perhaps the most onerous provision of HB 2201 is the requirement that private sector consultants be able to beat public agencies by 10% or more on total cost before they can be considered. Without even starting the discussion of how incredibly difficult it is to compare apples-to-apples on costs of the private sector versus public agencies, why would Kansas want to place such an artificial barrier in front of Kansas businesses? What is the public policy objective of HB 2201 that is aided by handicapping Kansas businesses which do work with and for state and local units of government?

The private sector brings huge value to Kansas taxpayers. In the consulting engineering world it brings innovation and new processes to public agencies which can lower costs, improve quality, decrease maintenance costs, and help improve public safety. When our members design projects, they absorb the liability for potential design mistakes. When the amount of work needed by public entities grows, our members are nimble enough to staff up and provide those services. When work is short, our firms are nimble enough to downsize quickly, ensuring that state agencies don't have to.

Unless Kansas wishes to simply grow the amount of work done in-house by state and local units of government while increasing the costs of doing business at the same time, HB 2201 is bad public policy. ACEC Kansas stands in strong opposition and urges you to do the same.

Thank you for the opportunity to appear today, and I would be happy to stand for questions at the appropriate time.